

MICHIGAN DEPARTMENT OF CORRECTIONS POLICY DIRECTIVE		EFFECTIVE DATE 01/01/2007	NUMBER 03.03.105
SUBJECT PRISONER DISCIPLINE		SUPERSEDES 03.03.105 (02/14/05)	
		AUTHORITY MCL 791.203; 791.206; 791.251, et seq.; 800.33; Administrative Rules 791.3301 - 791.3320; 791.5501	
		ACA STANDARDS 4-4226 through 4-4228; 4-4230 through 4-4248; 4-4250; 2-CO-3C-01; 3-ACRS-3A-15; 3-ACRS- 3C-01 through 3-ACRS-3C-13	
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POLICY STATEMENT:

Disciplinary sanctions shall be imposed against prisoners for rule violations in accordance with due process requirements.

POLICY:

GENERAL INFORMATION

- A. Alleged violations of written rules are classified as "major misconduct" or "minor misconduct" and are further defined on Attachments A, B, and C of this policy. Misconduct reports may be written only for the violations which are on these attachments.
- B. The structure of the disciplinary process is one of progressive sanctions. The least drastic method to ensure compliance with the rules should be used. Counseling and summary action are to be attempted to correct minor violations. However, when rule infractions require more formal resolution, a misconduct report may be written. If a misconduct report is written, it is to be prepared as soon as possible after the violation is observed or reported. Since the possible sanctions are more severe for major misconduct, greater procedural safeguards are provided for those charged with such violations.
- C. The Office of Legal Affairs shall maintain a Hearings Handbook and a Pocket Guide for Prisoner Rule Violations (CAX-398) to assist staff in implementation of the misconduct hearing process.

SUMMARY DISCIPLINARY ACTION

- D. An employee who observes a minor misconduct violation may issue a Summary Disciplinary Action - Minor Rule Infraction (CSJ-275) if the prisoner signs a waiver of her/his right to a minor misconduct hearing and appeal. If the prisoner signs the waiver, the employee shall impose summary punishment for the misconduct as identified on Attachment E; loss of privileges sanctions shall run on continuous days. The employee also shall determine the appropriate disposition of any contraband confiscated in conjunction with the summary disciplinary action, consistent with PD 04.07.112 "Prisoner Personal Property". The employee shall note the summary punishment given and disposition of any contraband on the Summary Disciplinary Action – Minor Rule Infraction form. The form shall not be retained in any of the prisoner's commitment files but a record of each summary disciplinary action issued shall be forwarded to the Deputy Warden, Assistant Deputy Warden, or other supervisory level person to ensure the sanction is recorded.
- E. If a prisoner does not waive his/her right to a hearing and appeal, the prisoner shall be charged only with a minor misconduct regardless of the charge or the prisoner's disciplinary record.

MINOR MISCONDUCT

- F. Unless summary punishment is warranted as set forth above, an employee who observes a minor misconduct violation may issue a Minor Misconduct Violation and Hearing Report (CSJ-240C). A prisoner charged with minor misconduct shall be afforded the following:

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1. Advance written notice of the charge.
2. A hearing conducted by a facility hearing officer in compliance with Administrative Rule 791.3310. The hearing shall be conducted within seven business days after the date of review. The hearing officer shall have had no prior direct involvement in the matter at issue.
3. To be present at the hearing. If the prisoner chooses not to attend, it shall be verified on the hearing report that the prisoner was notified of the hearing and chose not to attend. In all cases, the prisoner shall receive a copy of the facility hearing officer's written decision.
4. An appeal of the facility hearing officer's decision to the Assistant Deputy Warden or appropriate Field Operations Administration (FOA) Manager. The appeal must be filed within 24 hours after receipt of the hearing officer's written decision. If a minor misconduct charge is combined with a major misconduct charge, the prisoner shall instead file a request for rehearing as set forth in Paragraph DDD.

Review

- G. A staff member other than the person who issued the minor misconduct report shall conduct a review of the minor misconduct report with the prisoner. The review shall include the following:
 1. Examining the Minor Misconduct Report to determine that the charge is appropriate and that the name and number of the prisoner are correct.
 2. Reading the Minor Misconduct Report to the prisoner.
 3. Noting on the Minor Misconduct Report the location of any physical evidence.
 4. Ensuring that the prisoner receives a copy of the Minor Misconduct Report.
- H. A prisoner may waive his/her minor misconduct hearing in writing. The waiver may be accepted by either the facility hearing officer or reviewing officer. In such cases, the hearing officer shall make a finding on the misconduct charge(s) and, if found guilty, determine the appropriate sanction and disposition of any contraband as set forth below.
- I. The facility hearing officer shall ensure that all relevant evidence has been presented and, unless the prisoner waived the hearing, that the prisoner had adequate time and opportunity to prepare his/her defense. A prisoner is not entitled to a hearing investigator, but the hearing officer shall make a reasonable investigation of charges and assist those prisoners who have limited intelligence or education in presenting a defense. The decision of the hearing officer shall be based on a preponderance of the evidence and stated on the Minor Misconduct Violation and Hearing Report (CSJ-240C). If the prisoner is found guilty of the misconduct, the hearing officer shall determine the appropriate sanction, consistent with the requirements set forth in Paragraphs VV through CCC, and the appropriate disposition of any contraband confiscated in conjunction with the misconduct, consistent with PD 04.07.112 "Prisoner Personal Property".
- J. A copy of the Minor Misconduct Violation and Hearing Report (CSJ-240C) shall be kept only in the prisoner's Counselor file or, if in Community Residential Programs (CRP), the prisoner's field file. The report shall be kept for at least 60 calendar days after the date of the hearing or waiver for control and monitoring purposes and to provide the basis for establishing a pattern of minor misconducts if other action becomes necessary. If a major misconduct charge is reduced to a minor, a copy of the hearing record shall be retained as set forth in Paragraph FF.

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MAJOR MISCONDUCT

- K. A Major Misconduct Report (CSJ-240A) may be written by any Department staff person or person under contract with the Department who has knowledge that a misconduct has occurred. A Major Misconduct Report shall be written if the behavior constitutes a nonbondable major misconduct, as identified on Attachment B. Misconduct charge codes should not be identified in the Major Misconduct Report.
- L. Major misconduct which also is a felony shall be referred to the appropriate law enforcement agency as well as being pursued through the Department disciplinary process. The initiation of the disciplinary process may be delayed if it would interfere with the criminal investigation or prosecution. Prisoners charged with major misconduct are entitled to a formal hearing as set forth in Administrative Rule 791.3315. The major misconduct hearing process is further described below. All major misconduct hearings shall be conducted by hearing officers from the State Office of Administrative Hearings and Rules (SOAHR), Department of Labor and Economic Growth.
- M. All staff members shall cooperate fully with hearing investigators and SOAHR hearing officers, including complying with all requests for information or assistance necessary to conduct a proper hearing, as determined by the hearing officer. Any issues or concerns regarding the hearing process shall be referred as necessary through the appropriate chain of command to the Administrator of the Office of Legal Affairs for resolution. The Administrator of the Office of Legal Affairs shall serve as the liaison with SOAHR on issues regarding the prisoner disciplinary process.

Review

- N. A reviewing officer shall conduct a review of the Major Misconduct Report with the prisoner. In Correctional Facilities Administration (CFA) institutions, the reviewing officer shall be a supervisory level employee. In FOA, the reviewing officer shall be specifically designated by procedure. Major misconduct violations which occur in CFA institutions shall be reviewed within 24 hours after the report is written unless there is reasonable cause for delay, as determined by the SOAHR hearing officer at the misconduct hearing and as set forth in Paragraph BB. The misconduct shall be dismissed by the hearing officer if the report is not reviewed within that time period and the hearing officer does not determine that there was reasonable cause for delay. In FOA, the hearing officer shall dismiss the misconduct on timeliness grounds only if the delay between the time the violation occurred and the date that the report is reviewed has resulted in actual prejudice to the charged prisoner; e.g., witnesses can no longer be located and the prisoner was available for review during the delay.
- O. The review shall include the following:
 - 1. Examining the Major Misconduct Report to determine that the charge is appropriate and that the name and number of the prisoner are correct.
 - 2. Reading the Major Misconduct Report to the prisoner.
 - 3. Advising the prisoner of his/her right to witnesses, relevant documents, and a hearing investigator. The reviewing officer shall note on the Major Misconduct Report if the prisoner requests a hearing investigator as well as identifying any witnesses and documents requested.
 - 4. Noting on the Major Misconduct Report the location of any physical evidence.
 - 5. Ensuring that the prisoner receives a copy of the Major Misconduct Report.
- P. If the reviewing officer determines that a Major Misconduct Report is not appropriate or not properly written, s/he may return the report to the staff member who wrote it for rewriting. The reviewing officer also may pull a Major Misconduct Report which s/he determines to be inappropriate, but shall first discuss it with the reporting staff person. Once a Major Misconduct Report has been reviewed, it shall not be pulled except by the Warden or FOA Area Manager for good cause. If a Major Misconduct

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Report is pulled, it shall be retained by the Warden or FOA Area Manager for at least six months and shall be accompanied by a written statement indicating why it was pulled. A Major Misconduct Report shall not be pulled after it has been heard by a SOAHR hearing officer.

Confinement Pending Hearing

- Q. A prisoner given the sanction of toplock is restricted to his/her own cell, room, or bunk and bunk area. For purposes of this section, "bunk area" is defined as the prisoner's bunk and the floor area next to the prisoner's bunk which extends to the mid-point between the adjacent bunks on all sides. If a prisoner is housed in a multiple occupancy cell or room, toplock may consist of placement in a cell/room which is designated as a toplock cell/room. If placed in such a cell/room, the prisoner shall be given the same access to his/her property which would be provided if housed in his/her own cell/room and shall be treated in all other respects as being on toplock.
- R. At the review, the reviewing officer shall order a prisoner in a CFA institution who is charged with a nonbondable misconduct to be confined in temporary segregation or on toplock pending the hearing except if the misconduct is for escape from a facility of a lower security level than the one where the prisoner is now incarcerated and the reviewing officer determines that the prisoner will not be a threat to safety or security at the present custody level. In addition, the Warden or FOA Area Manager may allow a prisoner charged with a nonbondable offense to remain on bond status if it is determined that this will not present a threat to safety or security.
- S. The reviewing officer may order a prisoner in a CFA institution who is charged with a bondable misconduct to be confined in temporary segregation or on toplock pending a hearing only if there is a reasonable basis to believe that failure to do so would constitute a threat to the security or good order of the facility. This must relate to the specific circumstances of the incident. The reason for confinement in temporary segregation or on toplock shall be stated on the Major Misconduct Report and must include the facts underlying the charge which make it necessary to confine the prisoner for an offense which policy has already determined can normally be safely handled as a bondable matter. In other words, it must state why this case differs from other instances of this charge and thus presents a threat to security. Conclusory phrases such as "necessary for the good order of the facility" are not acceptable as reasons. Whenever an adequate reason is not given on the Major Misconduct Report, the SOAHR hearing officer shall report the matter to the Warden or FOA Area Manager and, through the appropriate chain of command, to the Administrator of the Office of Legal Affairs.
- T. Whenever a prisoner is confined in temporary segregation or on toplock pending a hearing, the exact time and date of placement shall be noted on the Major Misconduct Report by the reviewing officer, who also shall immediately notify the prisoner's housing unit of this placement. The person notified in the housing unit shall be indicated on the Major Misconduct Report.
- U. In FOA, a prisoner may be confined to a local jail pending the hearing. In such cases, the date and time of placement in the jail or of notification of such placement to the Department shall be noted on the Major Misconduct Report. The prisoner also may be returned to a CFA institution pending the hearing.

Investigation

- V. A hearing investigator shall be assigned to conduct a complete investigation of the misconduct charge(s) if the prisoner requested, at the time of review, a hearing investigator, witnesses, or documents. A hearing investigator also shall be assigned whenever a prisoner chooses not to cooperate during the review process, including choosing not to attend the review. The hearing investigator shall gather all witness statements and other evidence necessary to conduct a hearing and not simply respond to the questions raised by the prisoner. The prisoner may submit a personal statement and written questions to the hearing investigator to be asked of a witness; a Hearing Investigation Report (CAJ-681) shall be used for this purpose. The hearing investigator shall obtain answers to all questions which s/he reasonably believes are relevant, not repetitious, and not a threat to the security of the facility. The hearing investigator also shall contact any other witness and obtain any

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documents which s/he believes are relevant to the charge. Although the hearing investigator may initially determine if a question should be asked or a witness contacted, the SOAHR hearing officer has the final authority and may require the hearing investigator to obtain an answer to a question if s/he determines that an answer is needed. The hearing investigator shall obtain all information requested by the hearing officer or clearly explain in writing why it cannot be obtained.

- W. The Hearing Investigation Report (CAJ-681) and written witness statements shall be either typewritten or completed in black ink to facilitate copying of records on appeal. All hearing investigation reports and written witness statements shall be kept in designated hearing investigator files at the facility where the hearing is held. They shall be kept in chronological order by date of hearing and in order by prisoner number so the record can be retrieved if necessary for an appeal.
- X. A copy of any information determined by the SOAHR hearing officer to be confidential shall be kept with the Hearing Investigation Report and clearly marked as confidential by the hearing officer. All photographs shall be attached to the Hearing Investigation Report. All video and audio recordings which the hearing officer reviews and makes a part of the record also shall be retained and clearly marked as part of the hearing record.
- Y. Information determined by the SOAHR hearing officer to be confidential is exempt from disclosure under the Freedom of Information Act. The hearing investigator shall release a copy of confidential documents or materials only to the Office of Legal Affairs or with approval of the Administrator of the Office of Legal Affairs or designee.
- Z. The misconduct record, including all documents identified in this section and photographs, shall be retained in accordance with the Department's Retention and Disposal Schedule. If the facility is aware that a lawsuit is filed, the records shall be retained until the litigation is completed. A facility will ordinarily be alerted that a lawsuit appealing the misconduct has been filed when a request is made by the Office of Legal Affairs for a copy of the Hearing Investigation Report. Physical evidence other than photographs may be kept separately from the misconduct record but shall be retained for at least 90 calendar days after the hearing or until litigation is completed if a lawsuit is filed.

Hearing

- AA. A major misconduct hearing is not an adversarial proceeding but rather a fact-finding process in which all parties involved have a responsibility to reveal all relevant evidence whether supportive or damaging to the person charged. Fairness is to be the paramount consideration of this hearing. The SOAHR hearing officer shall ensure that all relevant evidence and testimony have been presented and shall return the matter to the hearing investigator for further investigation if needed. The hearing officer shall also ensure that the prisoner has had adequate time and opportunity to prepare a defense and that a reasonable and impartial investigation has been conducted.
- BB. A major misconduct hearing shall be conducted within seven business days after the prisoner receives written notice of the misconduct charge except as follows:
 - 1. If a hearing investigator is assigned, in which case the hearing shall be conducted within 14 business days; however, if the prisoner is confined to segregation or placed on toplock pending the hearing, the hearing must be conducted within seven business days after such confinement, unless the prisoner is released from confinement before that time period expires.
 - 2. If the prisoner is transferred to a local jail facility, a reception facility, or a higher security level, not including segregation, as a result of the misconduct. In such cases, the hearing shall be conducted within 14 business days after that transfer or receipt of written notice of the charge, whichever occurs first.
 - 3. If there is reasonable cause for delay, as determined by the SOAHR hearing officer. Circumstances which may be found to be reasonable cause for delay include, but are not

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limited to, an institutional disturbance, equipment failure, required attendance of all hearing officers at state-wide meetings, mobilization, or severe weather. Excessive work load is not a reasonable cause for delay unless it is due to unusual circumstances, as determined by the Administrator of the Office of Legal Affairs or designee. Whenever a hearing is not held within the required time limits, the reasons for delay shall be set forth in the Major Misconduct Hearing Report (CSJ-240B).

In computing the time limit for the hearing, the day on which the prisoner is confined, transferred, or received written notice of the charge is not counted; however, the day on which the hearing occurs is counted.

- CC. The major misconduct hearing shall be conducted by a SOAHR hearing officer. The prisoner has the right to be present at his/her hearing; however, a hearing may be conducted without the prisoner if a finding is made on the record that the prisoner chose not to attend the hearing after proper notice was given or is so assaultive or disruptive that the hearing cannot be held with the prisoner present. The hearing officer may interview a witness at the hearing if s/he determines this is necessary and not unduly hazardous to the safety of the facility, staff, or prisoners.
- DD. In CFA, all prisoners shall be subject to a patdown search prior to entering the hearing room. All prisoners in any form of segregation other than protective segregation, classified to security Level IV or V, or on toplock pending the hearing, shall be properly cuffed when brought to a hearing. Other restraints may be applied as deemed appropriate by the institution based on PD 04.05.112 "Managing Disruptive Prisoners". Custody staff shall remain in the hearing room during hearings conducted on prisoners who are in restraints. Staff shall remain in the vicinity of the hearing room during hearings conducted on all other prisoners to ensure staff is available to readily respond to any disturbance or request for assistance.
- EE. In making a decision as to whether a prisoner is guilty of a charge, the SOAHR hearing officer shall consider only evidence which relates to the specific charge or charges or their lesser included violations. Decisions shall be based upon a preponderance of evidence. The hearing officer shall make an individual determination of the credibility of staff and prisoner witnesses; s/he shall not automatically credit the testimony of staff when staff and prisoner testimony are in conflict. The evidence relied upon in making a determination and the reasons for the decision shall be set forth by the hearing officer in the Major Misconduct Hearing Report; the hearing officer also shall assign the appropriate misconduct code. If the prisoner is found guilty of the misconduct, the hearing officer shall determine the appropriate sanction, consistent with the requirements set forth in Paragraphs VV through CCC, and the appropriate disposition of any contraband confiscated, consistent with PD 04.07.112 "Prisoner Personal Property". After the hearing has been concluded, the prisoner shall be provided a copy of his/her Major Misconduct Hearing Report.
- FF. If the prisoner is found not guilty or the charges are dismissed, no sanction shall be imposed and the Major Misconduct Report and the Major Misconduct Hearing Report shall not be filed in any of the prisoner's files or used against the prisoner. However, a copy of the Major Misconduct Report, Major Misconduct Hearing Report, and Hearing Investigation Report, if any, shall be retained by the hearing investigator to assist in responding to requests for rehearing and litigation. The hearing investigator shall also retain these documents in cases where a major misconduct charge was reduced to a minor by the SOAHR hearing officer.
- GG. The hearing records for not guilty or dismissed charges shall be reviewed by the Warden, FOA Area Manager, or designee to monitor for any errors which have been made by facility staff in the misconduct process. If the Warden or the FOA Deputy Director or designee disagrees with the results of a hearing, s/he may submit a request for rehearing to the Administrator of the Office of Legal Affairs as set forth in Paragraph DDD.
- HH. After the hearing has been concluded, the prisoner may request and shall be provided a copy of his/her hearing investigation packet, including the hearing investigation report, any written witness statements,

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and copies of photographs which have not been determined by the SOAHR hearing officer to be confidential; such requests shall be made to the hearing investigator at the facility where the hearing occurred.

- II. Statistics shall not be kept on the guilty, not guilty, or dismissal rates of individual SOAHR hearing officers. Hearing officers shall not be threatened with or subjected to disciplinary action in whole or in part because of the number or percentage of hearings conducted which resulted in other than a guilty finding.

Posting of Hearing Results

- JJ. A copy of the completed Major Misconduct Docket (CAH-991) shall be posted by the facility in an area which is not ordinarily accessible to prisoners but is readily accessible to staff. It shall be posted within 48 hours after the hearing date and shall remain posted for at least 72 hours. The docket shall be retained in accordance with the Department's Retention and Disposal Schedule.

Entry on Computerized Database

- KK. The Warden of the institution where the hearing is conducted and the CRP Manager shall ensure that all major misconduct hearing results are entered onto the Department's computerized database (e.g., CMIS; OMNI). Guilty findings at CFA institutions, not including camps, shall be entered within one business day after the hearing. Guilty findings from hearings held at camps and for CRP prisoners shall be entered within five business days after the hearing.
- LL. If all charges on a Major Misconduct Report result in a not guilty or dismissed finding, or if the charge(s) are reduced to minors, the hearing results shall be entered into the Department's computerized database for research and statistical reporting purposes only. Except for designated staff in the Office of Legal Affairs and other staff authorized by the Administrator of the Office of Legal Affairs, the results shall not be accessible by users of the computerized database. After entry and auditing of this information, the hearing reports used for entry shall be destroyed.

SPECIAL PROVISIONS FOR MENTAL ILLNESS/MENTAL RETARDATION

- MM. For purposes of this section, "mental illness" is defined as a substantial disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality, or the ability to cope with the ordinary demands of life.
- NN. For purposes of this section, "mental retardation" is defined as a condition manifesting before the age of 18 years that is characterized by significantly sub-average intellectual functioning.
- OO. A prisoner with a mental illness or with mental retardation is not responsible for misconduct if s/he lacks substantial capacity to know right from wrong or is unable to conform conduct to Department rules.
- PP. Subject to Paragraphs QQ and SS, if a prisoner, a hearing investigator, or a SOAHR hearing officer raises the issue that the prisoner may not be responsible for the misconduct due to mental illness or mental retardation, a request for information on that issue shall be directed to the outpatient mental health team if the prisoner is on their caseload or to Psychological Services, Bureau of Health Care Services. If the issue of responsibility is raised by the prisoner and the hearing officer determines on the record that the claim is frivolous, a referral need not be made.
- QQ. Whenever a major misconduct is written on a prisoner receiving services in a Residential Treatment Program (RTP), Secure Status Outpatient Treatment Program (SSOTP), or Secure Status Residential Treatment Program (SSRTP), the unit chief or designated qualified mental health professional shall determine prior to the hearing whether the prisoner is not responsible for his/her behavior due to mental illness.

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1. If the prisoner is determined to be not responsible, the Major Misconduct Report shall not be processed. The prisoner's behavior shall be documented as set forth in Paragraph UU.
 2. If the prisoner is believed to be responsible for his/her behavior, the matter may proceed to hearing. If the prisoner is found guilty, a sanction of detention shall be given only if a qualified mental health professional has determined that the prisoner's mental health treatment needs can be met in punitive segregation.
- RR. A prisoner who is receiving inpatient mental health services, including through the Crisis Stabilization Program (CSP) or Rehabilitative Treatment Services (RTS), shall be subject to the disciplinary process only for behavior which constitutes a nonbondable major misconduct charge as defined on Attachment B. In all other cases, the prisoner's behavior and the immediate therapeutic response is to be thoroughly documented in the prisoner's health record to ensure that the safety of the prisoner and others is not jeopardized by lack of knowledge of a serious incident.
- SS. Whenever a major misconduct charge is proposed for hearing on a prisoner receiving inpatient mental health services, a qualified mental health professional shall determine prior to any review with or notice to the prisoner whether the prisoner lacked substantial capacity to know right from wrong or was unable to conform his/her conduct to the requirements of the rules as a result of mental illness. If the qualified mental health professional determines that the prisoner is not responsible for the behavior due to mental illness, the misconduct shall not be processed. However, if the qualified mental health professional determines the prisoner is responsible for his/her behavior, the treatment team and/or Regional Corrections Mental Health Program Director shall then determine whether the misconduct process would be detrimental to the prisoner's mental health treatment prior to processing the misconduct.
- TT. Major misconduct violations to be heard at an inpatient mental health unit are not required to be reviewed with a prisoner within 24 hours of the time a Major Misconduct Report is written and shall not be dismissed by a SOAHR hearing officer on timeliness grounds unless the delay between the time when a violation occurred and the time the report is reviewed has resulted in actual prejudice to the charged prisoner. If a prisoner who is receiving inpatient mental health services is found guilty of major misconduct, the hearing officer may assign only the sanctions of loss of privileges and/or restitution, as appropriate; if loss of privileges is ordered, the privileges to be withheld shall be determined by the Clinical Director of the Corrections Mental Health Program or designee(s).
- UU. Whenever a Major Misconduct Report is not written or processed due to mental illness or mental retardation, or because the disciplinary process is determined to be detrimental to treatment needs, the prisoner's behavior shall be documented in the health record and addressed therapeutically. If the prisoner's behavior was violent or assaultive or related to an attempt to escape, the incident shall be discussed in the prisoner's discharge summary and other appropriate reports (e.g., Special Problem Offender Notice) to ensure that it is brought to the attention of facility staff. Such behavior also shall be included in the parole eligibility report in accordance with PD 06.05.103 "Parole Eligibility/Lifer Review Reports".

MISCONDUCT SANCTIONS

- VV. Upon a finding of guilt in a minor or major misconduct hearing, the hearing officer shall impose one or more of the sanctions set forth in Attachment D. Except for detention, sanctions imposed shall begin at the conclusion of any previous misconduct sanctions remaining to be served; except for extra duty, sanctions imposed shall run on consecutive days. Hearing officers may consider all relevant information in determining a sanction, including the prisoner's prior record of major misconduct guilty findings and any mitigating or aggravating circumstances. For major misconducts, the facility shall provide a record of the prisoner's prior major misconduct history for use by the SOAHR hearing officer in determining an appropriate sanction.

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- WW. Attachment E identifies those privileges that may be lost by a prisoner in a CFA institution as a result of a loss of privileges sanction. For CRP prisoners, the appropriate Manager shall identify and post in an area accessible to prisoners a list of those privileges that may be lost. Unless the hearing officer identifies specific privileges to be lost, a loss of privileges sanction shall include all privileges identified on Attachment E or identified by the appropriate CRP Manager. If all privileges are lost, the hearing officer need only identify the number of days and dates during which the sanction will run. Toplock and loss of privileges sanctions shall begin and end at 6:00 a.m.
- XX. A prisoner on toplock shall not leave his/her cell, room, or bunk area for any reason without specific authorization from the appropriate staff person. The prisoner may be deprived of use of his/her television, radio, and tape player while on toplock as provided in the facility operating procedure.
- YY. Prisoners shall be released from toplock for regular showers, visits, medical care (including individual and group therapy), school, and law library. The Warden, FOA Manager, or designee may authorize prisoners on toplock to go to the dining room, work assignments, and/or other specified activities, including group religious services. Prisoners on toplock shall have a minimum of one hour per day of out-of-cell activity, which may include all out-of-cell activities authorized by this paragraph.
- ZZ. A hearing officer may give a prisoner credit for time spent in segregation or on toplock pending a hearing but is not required to do so. The sanction given by the hearing officer, and the time during which the sanction is to be served, shall not be changed by the facility, except as set forth in Paragraphs AAA and BBB.
- AAA. If a prisoner has accumulated a substantial period of toplock, detention, or loss of privileges to serve, the Warden or FOA Area Manager may excuse all of the remaining sanction periods that have not been served if any of the following conditions exist; sanction periods shall not be excused in part:
1. If requested by a prisoner and, at the time of the request, the prisoner has not been found guilty of a major misconduct for at least six months.
 2. Upon recommendation of a psychiatrist or psychologist.
 3. If cell space is needed in the segregation unit.
- BBB. The excused sanction periods shall be documented in writing by the Warden or FOA Area Manager, as appropriate, and placed in the prisoner's Record Office and Counselor files. An excused sanction may not be reinstated in whole or in part at a later date.
- CCC. A prisoner serving a sanction of detention, toplock, loss of privileges, or any combination of these sanctions, whether for major or minor misconduct, shall not be deprived of yard for more than 30 consecutive days without being provided a seven - day break during which the prisoner shall be given the opportunity for yard consistent with his/her status (e.g., toplock - one hour per day; segregation - one hour per day, five days per week). However, yard privileges for all segregation prisoners are subject to restriction by written order of the Warden or Deputy Warden as set forth in PD 04.05.120 "Segregation Standards".

MAJOR MISCONDUCT APPEAL (REQUEST FOR REHEARING)

- DDD. If the prisoner, Warden, or OFP Administrator disagrees with the results of a major misconduct hearing, s/he may submit a Request for Rehearing to the Administrator of the Office of Legal Affairs; no other staff may request a rehearing from the Administrator. The request must be submitted using a Request for Rehearing (CSJ-418) within 30 calendar days after a copy of the Major Misconduct Hearing Report is received. The Request for Rehearing form shall be available to prisoners upon request from the hearing officer or housing unit staff. A copy of the Major Misconduct Report and Major Misconduct Hearing Report being appealed shall be attached to the Request for Rehearing when submitted.

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- EEE. Facility staff shall not communicate with a SOAHR hearing officer or other SOAHR staff regarding a hearing decision except as authorized by this policy. Any prohibited communications, including attempts, shall be reported to the Administrator of the Office of Legal Affairs.
- FFF. A rehearing may be ordered by the Administrator of the Office of Legal Affairs in response to a Request for Rehearing or on her/his own motion. A rehearing shall be ordered if any of the following occurs:
1. The record of testimony made at the hearing is inadequate for judicial review.
 2. The hearing was not conducted pursuant to applicable statutes or policies and rules of the Department and departure from the statute, rule, or policy resulted in material prejudice to either party.
 3. The prisoner's due process rights were violated.
 4. The decision of the SOAHR hearing officer is not supported by competent, material, and substantial evidence on the record as a whole.
 5. The SOAHR hearing officer was personally biased in favor of either party.

OTHER ACTIONS RESULTING FROM MAJOR MISCONDUCT

- GGG. A prisoner cannot earn disciplinary or good time credits during any month in which s/he engaged in behavior for which s/he is subsequently found guilty of major misconduct. In addition, the Warden or Office of Field Programs Administrator may forfeit all or a portion of the prisoner's earned good time or disciplinary credits due to the guilty finding as set forth in PD 03.01.100 "Good Time Credits" and PD 03.01.101 "Disciplinary Credits".
- HHH. A prisoner who is serving a sentence subject to disciplinary time who is found guilty of major misconduct violation shall accumulate disciplinary time on that sentence as set forth in PD 03.01.105 "Disciplinary Time".
- III. Each prisoner who is found guilty of a nonbondable major misconduct shall be reviewed by the Security Classification Committee to ensure that the prisoner is still at the appropriate security level. Each prisoner also shall be reviewed by appropriate staff to determine if the prisoner's assaultive or property risk classifications have changed.
- JJJ. A prisoner may be reclassified to administrative segregation based solely on a major misconduct guilty finding as set forth in PD 04.05.120 "Segregation Standards".
- KKK. A prisoner who is found guilty of major misconduct also may be referred to other appropriate staff or services, such as for psychological or psychiatric evaluation, counseling, program reclassification, or security reclassification.

OPERATING PROCEDURES

- LLL. Wardens and the FOA Deputy Director shall ensure that procedures are developed as necessary to implement requirements set forth in this policy directive; this shall be completed within 60 calendar days after the effective date of the policy directive. This requirement includes ensuring that their existing procedures are revised or rescinded, as appropriate, if inconsistent with policy requirements or no longer needed. Facility procedures shall not conflict with procedures issued by the Director or Deputy Director.

AUDIT ELEMENTS

- MMM. A Primary Audit Elements List has been developed and is available on the Department's Document

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Access System to assist Wardens, the FOA Deputy Director, FOA Regional Administrators, and the Administrator of the Office of Legal Affairs with self audit of this policy, pursuant to PD 01.05.100 "Self Audit of Policies and Procedures".

ATTACHMENTS

NNN. This policy directive contains the following attachments:

1. Attachment A - Major and Minor Misconduct
2. Attachment B - Major Misconduct List
3. Attachment C - Minor Misconduct List
4. Attachment D - Misconduct Sanctions
5. Attachment E - Loss of Privileges Sanction

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ATTACHMENT A

MAJOR AND MINOR MISCONDUCT

Attachments B and C list prisoner behavior which is prohibited and subject to disciplinary sanctions. The left-hand column lists and defines the violations; any behavior that fits the definition is misconduct. The right-hand column lists specific examples of behavior fitting under the rule violation. These are just examples; other actions that fit the violation definition are also misconduct even though they are not mentioned in the right-hand column.

In addition to the violations which follow, three other kinds of charges are possible: accomplice, attempt, or conspiracy to commit a specific violation.

1. ACCOMPLICE - A prisoner who assists another to commit a specific misconduct or, after it is committed, conceals the violation from the authorities. The charge should be written as "Accomplice to Assault," for example, and the report must describe what the prisoner allegedly did. Examples of being an accomplice include acting as a 'lookout', holding down a victim, and allowing use of cell/room for commission of a violation.
2. ATTEMPT - A prisoner intends to commit a specific rule violation and does something towards committing it, even though s/he may not have succeeded.
3. CONSPIRACY - A prisoner intends to commit a specific violation and agrees with at least one other person to commit the violation. No action is necessary.

AREA OF CONTROL

A prisoner charged with a misconduct violation for possession of an item found in an area over which s/he has control, and has been assigned responsibility for, will be presumed to have possessed the item. The prisoner shall have the burden of proof in rebutting this presumption. A prisoner's area of control includes:

1. Assigned room or cell, including door track or frame;
2. If assigned to a multiple occupancy room or area, that part of the room assigned to the prisoner, including bed, locker, and surrounding wall, floor and ceiling space;
3. Any personal property belonging to the prisoner, unless it has been reported as stolen;
4. Area of work or school assignment for which prisoner is responsible.

LESSER INCLUDED VIOLATIONS

Many rule violations necessarily include other less serious violations. A lesser included violation would contain some, but not all, elements of the greater charge. For example, a lesser included violation of Assault and Battery is Threatening Behavior; Insolence is a lesser included violation of Threatening Behavior; and Creating a Disturbance is a lesser included violation of Inciting to Riot. If a prisoner is charged with misconduct, and the evidence does not support the particular violation charge but does establish a lesser included violation, the hearing officer has the authority to find the prisoner guilty of the lesser included violation.

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ATTACHMENT B

MAJOR MISCONDUCTS

CODE**	MAJOR RULE VIOLATION (*Nonbondable charges)	COMMON EXAMPLES
001 (Escape from Level I or community placement) 050 (Escape from secure facility)	* <u>Escape</u> Leaving or failing to return to lawful custody without authorization; failure to remain within authorized time or location limits (a) while on a public works crew; (b) while under electronic monitoring; or (c) during an authorized absence from work, school, or other activity while residing in a community corrections center.	Leaving from hospital trip or while housed at hospital; unauthorized change of approved destination in community programs. (NOTE: Hiding from authorities on prison grounds should be attempted escape.)
002	<u>Felony</u> Any act that would be a felony under state law is also a major misconduct violation. Reference shall be made to the specific statutory citation in all cases where this charge is alleged.	Breaking and entering - MCL 750.110. (NOTE: Use this charge only if there is no other specific violation which is applicable.)
003 (Prisoner victim) 004 (Staff victim) 005 (Other victim)	* <u>Assault Resulting in Serious Physical Injury</u> Physical attack on another person which resulted or was intended to result in serious physical injury. Serious physical injury means any injury which would ordinarily require medical treatment.	Attack using a knife, club, or other weapon; assault involving use of closed fists, kicking.
007 (Prisoner victim) 008 (Staff victim) 009 (Other victim)	* <u>Assault and Battery</u> Intentional, non-consensual touching of another person done either in anger or with the purpose of abusing or injuring another; physical resistance or physical interference with an employee. Injury is not necessary but contact is.	Throwing urine or feces or spitting on another person; physically resisting staff efforts to apply restraints. (NOTE: The victim of an assault and battery should not be charged with a violation of this rule.)
010	* <u>Homicide</u> Causing the death of another person by any means.	
012	* <u>Threatening Behavior</u> Words, actions, or other behavior which expresses an intent to injure or physically abuse another person. Such misconduct includes attempted assault and battery.	Threat of sexual assault made by one prisoner to another prisoner; writing threatening letter to another person; threat made to a third person.

NOTE: The first number of the code for accomplice to any misconduct is 1, for attempt 2, and for conspiracy 3 (e.g., attempted escape would be 201).

** Codes are for use by SOAHR hearing officers for reporting purposes.

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ATTACHMENT B

MAJOR MISCONDUCTS

CODE**	MAJOR RULE VIOLATION (*Nonbondable charges)	COMMON EXAMPLES
013 (Prisoner victim; sexual acts) 051 (Prisoner victim; abusive sexual contact) 052 (Staff victim) 053 (Other victim)	* <u>Sexual Assault</u> Non-consensual sexual acts, meaning sexual penetration of, or sexual contact with, another person without that person's consent or with a person who is unable to consent or refuse; abusive sexual contact, meaning physical contact with another person for sexual purposes without that person's consent or with a person who is unable to consent or refuse.	Rape; intentional touching of sexual area (e.g., buttocks, breasts, genitals) without consent; kissing or embracing without consent of one who is kissed or embraced.
014	* <u>Fighting</u> Physical confrontation between two or more persons, including a swing and miss, done in anger or with intent to injure.	Fights between prisoners, whether with fists, broom handles, or other weapons.
017	* <u>Failure to Disperse</u> Failure or refusal of a prisoner to leave an area in which a disturbance is occurring when the prisoner is physically able to leave; includes obstruction of staff at the scene of the disturbance. Disturbance is defined as a fight between prisoners, subduing or taking into custody of a prisoner or prisoners by staff, destruction of property, or any similar action or occurrence.	Preventing a staff member from coming to the aid of other staff; remaining at the scene of a fight to observe or offer encouragement to combatants; blocking staff who are removing a prisoner from an area.
020	<u>Disobeying a Direct Order (DDO)</u> Refusal or failure to follow a valid and reasonable order of an employee.	Refusal to submit to a shakedown; fleeing from staff after being directed to stop.
021	<u>Possession of Forged Documents; Forgery</u> Knowingly possessing a falsified or altered document; altering or falsifying a document with the intent to deceive or defraud; unauthorized possession or use of the identification card, prisoner store card, pass, or detail of another prisoner.	A fake pass, application, etc. which is represented to be true; unauthorized alteration or removal of metered mail stamp; unauthorized alteration of metered envelope.
022	* <u>Incite to Riot or Strike; Rioting or Striking</u> Advocating or instigating actions which are intended to seriously endanger the physical safety of the facility, persons, or property or to disrupt the operation of the facility by group cessation of normal activity; participation in such action; joining others in unauthorized work stoppage.	Encouraging other prisoners to take group action to injure staff, destroy property, or disrupt normal operations; refusal of prisoners as a group to leave the yard when instructed by staff to do so.

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ATTACHMENT B

MAJOR MISCONDUCTS

CODE**	MAJOR RULE VIOLATION (*Nonbondable charges)	COMMON EXAMPLES
023	<u>Interference with the Administration of Rules</u> Acts intending to impede, disrupt, or mislead the disciplinary process for staff or prisoners, including failure to comply with a loss of privileges sanction imposed by a hearing officer.	Intimidating or tampering with a witness; tampering with evidence; interfering with an employee writing a misconduct report; making false accusations of misconduct against another prisoner or staff which results in disciplinary action being initiated against the person; smoking, or unauthorized possession of smoking materials, while serving a loss of privileges sanction prohibiting possession of smoking materials. (NOTE: Should not be charged as retaliation for the writing of a grievance; if written as result of a grievance, it must be shown that prisoner knew allegation was false when s/he made it and intentionally filed a false grievance. Ordinarily, the statement of staff member refuting the claim will not be sufficient.)
024	<u>Bribery of an Employee</u> Offering to give or withhold anything to persuade an employee to neglect duties or perform favors.	
026	<u>Insolence</u> Words, actions, or other behavior which is intended to harass, degrade, or cause alarm in an employee.	Using abusive language to refer to an employee; writing about or gesturing to an employee in a derogatory manner.
027	<u>Destruction or Misuse of Property with Value of \$10 or More</u> Any destruction, removal, alteration, tampering, or other unauthorized use of property which has a value of \$10 or more; unauthorized possession of a component part of an item which has a value of \$10 or more.	Tampering with locking device; use of a door plug; destruction of property belonging to another person; unauthorized use of a telephone or using another prisoner's Personal Identification Number (PIN) to make a telephone call; possession of television or tape player parts.

** Codes are for use by SOAHR hearing officers for reporting purposes.

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ATTACHMENT B

MAJOR MISCONDUCTS

CODE**	MAJOR RULE VIOLATION (*Nonbondable charges)	COMMON EXAMPLES
028	<u>Failure to Maintain Employment</u> Failure of a prisoner in CRP to immediately report to appropriate Department staff any absence from employment or training for illness, layoff, termination, or any other reason; failure to obtain prior staff approval for planned absences from, or voluntary termination of, employment or training.	(NOTE: Applies only to prisoners in CRP.)
029	* <u>Possession of a Weapon</u> Unauthorized possession of any item designed or intended to be used to cause or threaten physical injury to another person; unauthorized possession of piece, strip, or chunk of any hard material which could be used as a weapon or in the creation of a weapon.	Possession of a prison-made knife, club, or any item fashioned or intended as a weapon; possession of a rock.
030	* <u>Possession of Dangerous Contraband</u> Unauthorized possession of an explosive, acid, caustic, toxin, material for incendiary device; escape material; detailed road map for any area within the State of Michigan, adjacent state or Ontario, Canada; bodily fluid stored in a container within a cell or room; tattoo device; cell phone or other electronic communication device; a critical or dangerous tool or other item needing to be strictly controlled as specifically identified in the Attachments to PD 04.04.120 "Tool Control", including failure to return any item covered by the definition which is signed out for a work or school assignment or any other purpose.	Possession of gasoline, butane lighter, toilet bowl cleaner, rope and grappling hook, screwdriver, or hammer. (NOTE: Possession of any item covered by this definition with the intent to cause physical injury should be charged as Possession of a Weapon.)
031	<u>Possession of Money</u> Possession of unauthorized amounts of money or money from unauthorized sources. Money is defined as cash, negotiable instrument, credit card, or blank check.	(NOTE: Arranging to obtain money from another prisoner or from a family member or friend of another prisoner should be charged as attempted possession of money. No money is authorized inside institutions.)
032	<u>Creating a Disturbance</u> Actions or words of a prisoner which result in disruption or disturbance among others, but which does not endanger persons or property.	

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ATTACHMENT B

MAJOR MISCONDUCTS

CODE**	MAJOR RULE VIOLATION (*Nonbondable charges)	COMMON EXAMPLES
033 (Prisoner/prisoner contact) 054 (Prisoner/other contact) 055 (Exposure) 056 (Imitating appearance) 057 (Words/actions of a sexual nature)	<u>Sexual Misconduct</u> Consensual touching of the sexual or other parts of the body of another person for the purpose of gratifying the sexual desire of either party, except that an embrace of a visitor at the beginning and end of a visit, or holding hands with a visitor during a visit is not sexual misconduct; intentional exposure of the sexual organs to another person in a location or manner where such exposure has no legitimate purpose; imitating the appearance of the opposite sex; words or actions of a sexual nature directed at another person in order to harass or degrade that person.	Kissing, hugging, intercourse, or sodomy; exposure of sexual organs when prisoner knows staff will be making rounds; wearing clothing of the opposite sex; wearing of makeup by male prisoners; whistling at and making sexual remarks to another person; making propositions of a sexual nature. (NOTE: Threats of sexual assault should be charged as Threatening Behavior.)
034 (Alcohol) 039 (Marijuana) 040 (Heroin/morphine) 041 (Cocaine) 042 (Other substance) 043 (Drug test refusal) 044 (Narcotics paraphernalia)	<u>Substance Abuse</u> Possession, use, selling, or providing to others, or being under the influence of, any intoxicant, inhalant, controlled substance (as defined by Michigan statutes), alcoholic beverages, marijuana or any other substance which is used to cause a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulling of the senses or nervous system; unauthorized possession or use of prescribed or restricted medication; possession of narcotics paraphernalia; failure or refusal to voluntarily submit to substance abuse testing which is requested by the Department for the purpose of determining the presence in the prisoner of any substance included in this charge.	Narcotics paraphernalia includes such items as marijuana and "crack" pipes, needles and syringes which are used to administer narcotics, but does not include such items as "roach clips" and cigarette papers; failure to return prescribed or restricted medication after its authorization date has expired.
035	<u>Unauthorized Occupation of Cell or Room</u> Being in another prisoner or prisoners' cell or room, or clearly defined living area, without specific authorization from staff; being present in any cell, room, or other walled area with another prisoner or prisoners or a member or members of the public without staff authorization.	Two prisoners in a "one-person" cell; being in a room, cell, bay, cubicle, or other area to which the prisoner is not assigned; two prisoners in a restroom stall; prisoners and member of the public in prisoners' restroom or visiting area restroom.

** Codes are for use by SOAHR hearing officers for reporting purposes.

ATTACHMENT B

MAJOR MISCONDUCTS

CODE**	MAJOR RULE VIOLATION (*Nonbondable charges)	COMMON EXAMPLES
036	<u>Out of Place</u> Being within the lawful boundaries of confinement and not attempting to escape, but in a location without the proper authorization to be there; absent from where one is required to be; breaking toplock without authorization; being outside assigned housing unit without prisoner identification card; being absent from required location during count.	“Skating” in another block; no pass; no I.D. card; failure to be where required by detail; failure to remain on own bunk or other location as designated by facility rules during count. (NOTE: “Skating” in own housing unit during the day is a minor unless on toplock status.)
037	<u>Theft; Possession of Stolen Property</u> Any unauthorized taking of property which belongs to another; possession of property which the prisoner knows, or should have known, has been stolen.	
038	<u>Gambling; Possession of Gambling Paraphernalia</u> Playing games or making bets for money or anything of value; possession of gambling equipment, or other materials commonly associated with and intended for wagering.	Possession of dice, betting slips, point spreads, items used as counters in a card game, and similar items.
045	* <u>Smuggling</u> Bringing or attempting to bring any unauthorized item into or out of a correctional facility or a specialized area or unit within a facility such as segregation.	Receiving jewelry, shoes, etc. during a visit.

** Codes are for use by SOAHR hearing officers for reporting purposes.

ATTACHMENT C

MINOR MISCONDUCTS

CODE	MINOR RULE VIOLATION	COMMON EXAMPLES
(All are coded 049)		
	<u>Misdemeanor</u> Any act that would be a misdemeanor if prosecuted under Michigan law is also a minor misconduct violation, unless specified elsewhere as a major. Reference must be made to the specific statutory citation all cases where this charge is alleged.	Larceny under \$100 - MCL 750.356.
	<u>Abuse of Privileges</u> Intentional violation of any departmental or institutional regulation dealing with prisoner privileges unless it is specified elsewhere as a major.	
	<u>Contraband</u> Possession or use of non-dangerous property which a prisoner has no authorization to have, where there is no suspicion of theft or fraud.	Possession of unauthorized items or anything with someone else's name or number on it; having excessive store items or tokens.
	<u>Health, Safety, or Fire Hazard</u> Creating a health, safety, or fire hazard by act or omission.	Dirty cell; smoking in unauthorized areas; lack of personal hygiene.
	<u>Temporary Out of Place/Bounds</u> In own housing unit during the day; out of place for a brief time or adjacent to where supposed to be.	
	<u>Unauthorized Communications</u> Any contact, by letter, gesture, or verbally, with an unauthorized person or in an unauthorized manner.	Love letters to another prisoner; passing property on a visit either directly or through a third person.
	<u>Violation of Posted Rules</u> Violation of rules of community residential programs, housing units, dining room, furlough, work, or school assignment which is not covered elsewhere.	Violation of kitchen sanitary regulations; wasting food; excessive noise in housing unit, playing TV or radio without earphone; unauthorized driving of motor vehicle; failure to report income in CRP.

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ATTACHMENT C (continued)

MINOR MISCONDUCTS

CODE	MINOR RULE VIOLATION	COMMON EXAMPLES
(All are coded 049)		
	<u>Horseplay</u> Any physical contact, or attempted physical contact, between two or more persons, done in a prankish or playful manner without anger or intent to injure or intimidate.	Towel snapping at others in showers; playful body punching.
	<u>Lying to an Employee</u> Knowingly providing false information to an employee.	Giving a false name, number, or room/cell assignment. (NOTE: making false accusations of misconduct is included under the major violation of Interference with Administration of Rules.)
	<u>Destruction or Misuse of Property with Value of Less Than \$10</u> Any destruction, removal, alteration, tampering, or other misuse of property which has a value of less than \$10.	
	<u>Excessive Noise</u> Creation of sound, whether by use of human voice, a radio, TV, or any other means, at a level which could disturb others.	Playing TV or radio above allowable level; banging objects against cell bars.

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ATTACHMENT D

DISCIPLINARY SANCTIONS

Summary Punishment

An employee who issues a summary punishment action shall impose summary punishment, not to exceed one of the following, if the prisoner signs a waiver of his/her right to a minor misconduct hearing and appeal:

- A. Toplock (confinement to quarters), not to exceed one day.
- B. Loss of privileges, not to exceed seven days.
- C. Extra duty, not to exceed eight hours.

Sanctions for Minor Misconduct

A hearing officer shall impose one or more of the following sanctions upon a finding of guilt in a minor misconduct hearing:

- A. Toplock (confinement to quarters), not to exceed five days.
- B. Loss of privileges, not to exceed 15 days.
- C. Assignment of extra duty, not to exceed 20 hours, which may include work of a community service nature for prisoners in CRP.
- D. Counseling and reprimand.
- E. Restitution.

Sanction for Major Misconduct

A SOAHR hearing officer shall impose one or more of the following sanctions upon a finding of guilt in a major misconduct hearing:

- A. Detention (punitive segregation), not to exceed 30 days for each violation or 60 days for all violations arising from a single incident, with the maximum range reserved for only the most serious or persistent violators.
- B. Toplock (confinement to quarters), not to exceed seven days for each violation, but not to be combined with a detention sentence.
- C. Loss of privileges, not to exceed 30 days.
- D. Assignment of extra duty, not to exceed 40 hours, which may include work of a community service nature for prisoners in CRP.
- E. Restitution.

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ATTACHMENT E

LOSS OF PRIVILEGES SANCTION

Unless the hearing officer identifies specific privileges to be lost, all of the following privileges will be lost by a prisoner in a CFA institution as a result of a "loss of privileges" sanction:

- A. Day room, activity room, TV room, study room, or other designated area where similar activities occur.
- B. Exercise facilities, such as yard, gym, and weight room/pit.
- C. Group meetings, such as Bible class and Jaycees, but not including primary religious worship service; this does not apply to group therapy.
- D. Hobbycraft.
- E. Kitchen area, including microwave, ice machine, and hot water dispenser.
- F. Direct access to library (general library only, not law library or mini-law library; prisoners in segregation shall continue to have books delivered to them consistent with PD 04.05.120 "Segregation Standards").
- G. Movies.
- H. Music practice; musical instruments.
- I. Prisoner store, except for the purchase of mandatory health care products, over-the-counter personal care products, hygiene products, and stationery items (including metered envelopes).
- J. Radio, tape player, television.
- K. Leisure time activities, including recreational details.
- L. Telephone, except calls to return calls from an attorney upon request of the attorney.
- M. Visiting. This applies only if hearing officer identified in the hearing report that the misconduct occurred in connection with a visit, and only with the visitor named in the hearing report.
- N. Cigarette papers, matches, and all tobacco products, including chewing tobacco. This applies only if hearing officer identified in the hearing report that the misconduct occurred in connection with the prisoner smoking, chewing, or having unauthorized possession of tobacco in a housing unit or other prohibited area.